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GOVERNOR



# STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

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## REPORT TO THE LEGISLATURE: INCORRECT REDUCTION CLAIMS

**January 1, 2011 – December 31, 2011**

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## Table of Contents

<b>I. INTRODUCTION</b> .....	03
<b>II. SUMMARY OF DECIDED INCORRECT REDUCTION CLAIMS</b>	
<i>Emergency Procedures Earthquakes, and Disasters</i> , 01-4241-I-03 .....	04
<i>Handicapped and Disabled Students</i> , 05-4282-I-02, 09-4282-I-04 .....	06
<i>Handicapped and Disable Students</i> , 09-4282-I-05 .....	07
<i>Health Fee Elimination</i> , 09-4206-I-19, 20, 23, 26, 27, 28, and 30.....	09

## INTRODUCTION

Government Code section 17602 requires the Commission on State Mandates to report to the Legislature “the number of individual and consolidated incorrect reduction claims decided during the preceding calendar year and whether and why the reduction was upheld or overturned.” This report fulfills that requirement.

Government Code section 17561(b) authorizes the State Controller’s Office to audit claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the State Controller’s Office determines is excessive or unreasonable.

Government Code Section 17551(d) requires the Commission to hear and decide a claim that the State Controller’s Office has incorrectly reduced payments to the local agency or school district (incorrect reduction claims). If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.7 of the Commission’s regulations requires the Commission to send the statement of decision to the State Controller’s Office and request that the costs in the claim be reinstated.

This report includes a summary of 2 individual and 9 consolidated incorrect reduction claims decided by the Commission during the period from January 1, 2011 through December 31, 2011. The complete text of the Statements of Decision may be found at [http://www.csm.ca.gov/leg\\_reports.shtml](http://www.csm.ca.gov/leg_reports.shtml).

# SUMMARY OF DECIDED CLAIMS<sup>1</sup>

*Emergency Procedures, Earthquake and Disasters*

01-4241-I-03

Statutes of 1984, Chapter 1659

Fiscal Years 1996-1997 and 1997-1998

Claimant: San Diego Unified School District

Incorrect Reduction Claim Filed: March 26, 2000

Statement of Decision Adopted: July 28, 2011

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This is an incorrect reduction claim filed by San Diego Unified School District (District) challenging a reduction made by the State Controller's Office to the District's reimbursement claim for costs incurred in fiscal years 1996-1997 and 1997-1998 for the *Emergency Procedures, Earthquake and Disasters* program. Under that program, local agencies and school districts are eligible to claim reimbursement for the costs to school districts to establish an earthquake emergency procedure system in every public or private school building having an occupant capacity of 50 or more students or more than one classroom.

Following an audit, the State Controller's Office reduced the entire claimed reimbursement amounts of \$588,819 for fiscal year 1996-1997 and \$612,617 for fiscal year 1997-1998, for a total of \$1,201,436 for the following reasons:

- The claims data submitted by the District included time not related to the mandate, such as time related to fires, civil defense, and other school emergencies and disasters.
- The claims data submitted by the District included costs incurred to pay the salaries of teachers for in-classroom time spent on earthquake preparedness, which is not reimbursable.
- The documentation required to support the reimbursement claims is lacking in several respects.

The District sought a determination from the Commission on State Mandates (Commission) pursuant to Government Code section 17551(d) that the State Controller's Office incorrectly reduced the claim, and requested that the State Controller's Office reinstate the \$1,201,436 reduced.

The Commission found that the State Controller's Office properly reduced the District's fiscal year 1996-1997 reimbursement claim by \$174,957 for the costs incurred to pay the salaries of teachers for in-classroom time spent on earthquake preparedness, because under the 1991 amended parameters and guidelines, no reimbursement can be claimed for in-classroom teacher time. The Commission also found that the State Controller's Office properly reduced the District's reimbursement claims to the extent they sought reimbursement for activities not related to earthquake emergencies.

However, the Commission also concluded that the State Controller's Office incorrectly reduced the remaining costs incurred by San Diego Unified School District in fiscal years 1996-1997 and 1997-1998 for the *Emergency Procedures, Earthquake and Disasters* program.

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<sup>1</sup> The Commission's complete Statements of Decision for these claims may be found at [http://www.csm.ca.gov/leg\\_reports.shtml](http://www.csm.ca.gov/leg_reports.shtml).

The Commission remanded this claim back to the State Controller's Office and requested that it determine the amount of the District's reimbursement claim that is attributable to earthquake emergencies, and reimburse the District for that amount, less the \$174,957 for in-classroom time that the State Controller's Office properly reduced.

## *Handicapped and Disabled Students*

05-4282-I-02 and 09-4282-I-04

Government Code Sections 7570-7588

Statutes 1984, Chapter 1747 (AB 3632)

Statutes 1985, Chapter 1274 (AB 882)

California Code of Regulations, Title 2, Sections 60000-60610 (Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed June 30, 1986, designated effective July 12, 1986 [Register 86, No. 28

Fiscal Years 1997-1998, 1998-1999, 2000-2001

Claimant: County of Orange

Incorrect Reduction Claim Filed: April 28, 2006 and March 15, 2010

Statement of Decision Adopted: July 28, 2011

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These are two consolidated incorrect reduction claims filed by the County of Orange regarding reductions made by the State Controller's Office to reimbursement claims for costs incurred in three fiscal years (1997-1998, 1998-1999, and 2000-2001), in the total amount of \$2,676,659 to provide medication monitoring services to seriously emotionally disturbed pupils under the *Handicapped and Disabled Students* program.

The *Handicapped and Disabled Students* program was enacted by the Legislature to implement federal law that requires states to guarantee to disabled pupils the right to receive a free and appropriate public education that emphasizes special education and related services, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The program shifted to counties the responsibility and funding to provide mental health services required by a pupil's individualized education plan (IEP).

The State Controller's Office alleged that medication monitoring was not a reimbursable activity during the audit period, and did not become reimbursable until fiscal year 2001-2002. The State Controller's Office also argued that the County's first incorrect reduction claim filed for fiscal years 1997-1998 and 1998-1999 was not timely filed.

The County disagreed with the State Controller's Office. The County sought a determination from the Commission pursuant to Government Code section 17551(d), that the State Controller's Office incorrectly reduced the claim, and requested that the Controller reinstate the \$2,676,659 reduced for fiscal years 1997-1998 through 2000-2001.

The Commission found that the County timely filed the first incorrect reduction claim for the 1997-1998 and 1998-1999 fiscal year costs.

The Commission further found that the State Controller's Office correctly reduced the County's reimbursement claims for medication monitoring costs incurred in fiscal years 1997-1998, 1998-1999, and 2000-2001. The substantive issue presented in this claim related to the sole issue of whether providing medication monitoring services was reimbursable in fiscal years 1997-1998, 1998-1999, and 2000-2001. As described in the analysis, the Commission previously addressed the issue of medication monitoring and decisions have been adopted on the issue. These decisions are now final and must be followed here. Thus, the Commission found that the County was not eligible for reimbursement for providing medication monitoring services until July 1, 2001.

## *Handicapped and Disabled Students*

09-4282-I-05

Government Code Sections 7570-7588

Statutes 1984, Chapter 1747 (AB 3632); Statutes 1985, Chapter 1274 (AB 882); Statutes 1994, Chapter 1128 (AB 1892); Statutes 1996, Chapter 654 (AB 2726);

California Code of Regulations, Title 2, Sections 60000-60610 (Emergency regulations effective January 1, 1986 [Register 86, No. 1], and re-filed June 30, 1986, designated effective July 12, 1986 [Register 86, No. 28]; and

Emergency regulations effective July 1, 1998 [Register 98, No. 26], final regulations effective August 9, 1999 [Register 99, No. 33])

Fiscal Years 2003-2004, 2004-2005, and 2005-2006

Claimant: County of Santa Clara

Incorrect Reduction Claim Filed:

Statement of Decision Adopted: May 26, 2011

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This is an incorrect reduction claim filed by the County of Santa Clara regarding reductions made by the State Controller's Office to reimbursement claims for costs incurred in fiscal years 2003-2004 through 2005-2006, in the approximate amount of \$8.6 million to provide outpatient mental health rehabilitation services to seriously emotionally disturbed pupils under the *Handicapped and Disabled Students* program.

The *Handicapped and Disabled Students* program was enacted by the Legislature to implement federal special education law (Individuals with Disabilities Education Act, or IDEA) that requires states to guarantee to disabled pupils the right to receive a free and appropriate public education that emphasizes special education and related services, including psychological and other mental health services, designed to meet the pupil's unique educational needs. The program shifted to counties the responsibility and funding to provide mental health services required by a pupil's individualized education plan (IEP).

The State Controller's Office alleged that outpatient rehabilitation services were not required by the underlying regulations as a service to be provided to seriously emotionally disturbed pupils, and that providing outpatient rehabilitation services was not identified as a reimbursable activity in the parameters and guidelines. Thus, the State Controller's Office argued that outpatient rehabilitation costs were not reimbursable. The Controller's Office also contended that the County provided socialization and vocational services to pupils as part of the rehabilitation services, which are not reimbursable under the parameters and guidelines.

The County disagreed with the State Controller's Office. The County sought a determination from the Commission on State Mandates (Commission) pursuant to Government Code section 17551(d), that the State Controller's Office incorrectly reduced the claim, and requested that the Controller reinstate the \$8.6 million reduced for fiscal years 2003-2004 through 2005-2006.

The Commission found that the State Controller's Office incorrectly reduced the County's reimbursement claims for the costs incurred to provide outpatient rehabilitation services, except those costs provided for "social skills training." "Social skills training" is one of eight types of outpatient rehabilitation interventions provided by the County. The Commission's statement of decision and parameters and guidelines for the *Handicapped and Disabled Students* program include an express finding that socialization services are not reimbursable.

The Commission remanded the County's reimbursement claims back to the State Controller's Office to determine the portion of the costs claimed related to "social skills training," which can be properly reduced. The Commission found that all other costs incurred by the County for outpatient rehabilitation services were incorrectly reduced and should be reinstated.



## *Health Fee Elimination*

09-4206-I-19, 09-4206-I-20, 09-4206-I-23, 09-4206-I-26,  
09-4206-I-27, 09-4206-I-28, 09-4206-I-30

Education Code Section 76355

Statutes 1984, Chapter 1 (1983-1984 2nd Ex. Sess.) (AB 1)  
Statutes 1987, Chapter 1118 (AB 2336)

Fiscal Years 2002-2003, 2003-2004, 2004-2005, 2005-2006,  
2006-2007, 2007-2008, 2008-2009

Claimants: Citrus, Cerritos, Los Rios, Redwoods, Allan Hancock Joint,  
Rancho Santiago and Pasadena Area Community College Districts

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This analysis looked at seven consolidated incorrect reduction claims filed by seven community college districts (Districts) regarding reductions made by the State Controller's Office (Controller) to reimbursement claims for costs incurred during fiscal years 2002-2003 through 2008-2009 for providing health services to all community college students under the *Health Fee Elimination* program. This program requires community college districts to provide and maintain health services at a specific level, and provides the districts with the authority to impose fees to offset some of the costs of the program.

The Commission concluded that the Controller incorrectly reduced costs incurred that were attributable to physicals for athletes by using the health service fee community college districts were authorized to charge as offsetting revenue for reimbursement claims made by the following community college districts, for the following fiscal years, and at issue in the following incorrect reduction claims:

- Cerritos Community College District claimed costs associated with providing physicals for athletes during fiscal years 2002-2003 through 2006-2007 (CSM 09-4206-I-20).
- Los Rios Community College District claimed costs associated with providing physicals for athletes during fiscal years 2005-2006 through 2007-2008 (CSM 09-4206-I-23).
- Redwoods Community College District claimed costs associated with providing physicals for athletes during fiscal years 2002-2003 through 2006-2007 (CSM 09-4206-I-26).

The Commission remanded the above community college districts' reimbursement claims back to the Controller to determine the portion of the total costs claimed that were attributable to physicals for athletes. The costs for physicals for athletes should be reinstated.

Additionally, the Commission concluded that the Controller incorrectly reduced costs incurred that were attributable to physicals for employees by using the health service fee community college districts were authorized to charge as offsetting revenue for reimbursement claims made by the following community college districts, for the following fiscal years, and at issue in the following incorrect reduction claims:

- Cerritos Community College District claimed costs associated with providing physicals for employees during fiscal years 2002-2003 through 2006-2007 (CSM 09-4206-I-20).
- Redwoods Community College district claimed costs associated with providing physicals for employees during fiscal years 2002-2003 through 2006-2007 (CSM 09-4206-I-26).

The Commission remanded the above community college districts' reimbursement claims back to the Controller to determine the portion of the total costs claimed that were attributable to physicals for employees. The costs for physicals for employees should be reinstated.

Finally, the Commission concluded that the Controller correctly reduced all other costs incurred during all other fiscal years claimed by Citrus Community College District, Cerritos Community College District, Los Rios Community College District, Redwoods Community College District, Allan Hancock Joint Community College District, Rancho Santiago Community College District, and Pasadena Area Community College District for the *Health Fee Elimination* program by the amount of health service fees that the districts were authorized to charge.